

Bye-Law 11 Disciplinary & Appeals

(Board of Trustees approved /
Student Council ratification
due October 2020)

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1. Introduction

- 1.1. Falmouth and Exeter Students' Union's Code of Conduct has authority over any premises managed by the Union, any Union activities, including the activities of any Union Club or Society, or any misconduct which takes place outside Union premises but is connected with the Students' Union and is likely to affect the reputation of the Union.
- 1.2. It may be necessary in the interest of relevant parties to suspend an individual or group from participation in any Students' Union activities including the activities of any Union Club or Society pending the outcomes of a Stage 3 disciplinary hearing.
- 1.3. This procedure has not been written as a replacement for common law; if any criminal offence has been committed normally they should be referred to the appropriate authorities. However, if an individual/group is subject to a criminal investigation it does also mean that appropriate action using this procedure may be taken and this can run concurrently.
- 1.4. There are 3 stages in the disciplinary procedure:
 - 1.4.1. Stage 1 Informal
 - 1.4.2. Stage 2 Members Disciplinary Committee
 - 1.4.3. Stage 3 Members Disciplinary Hearing.

2. Disciplinary Procedure

- 2.1. If any member of the Students' Union is deemed to have breached the rules of the Union, and their conduct has not been able to be addressed through an informal approach (Stage 1), or the breach is considered to be serious, they will be advised of this and their conduct shall be examined by a panel consisting of the following:
 - 1 Union Director or nominee
 - 1 Sabbatical Officer (shall not be the Chair of the Board of Trustees)
 - 1 Union Manager / Project Lead
- 2.2. This panel shall be known as the **Members Disciplinary Committee (Stage 2)**.
- 2.3. No individual shall sit on the Members Disciplinary Committee or Appeals Committees or any other Committee regarding the complaint if they are a witness, potential witness, the complainant or directly connected with the complainant or individual or group being charged.
- 2.4. The Members Disciplinary Committee will decide whether the matter is resolved as:
 - not substantiated
 - not proven
 - informal advice given
 - recorded warning
 - referred to **Members Disciplinary Hearing (Stage 3)**.
- 2.5. The Members Disciplinary Committee may refer any matter to either Falmouth University or the University of Exeter, or any other appropriate body as it sees necessary.
- 2.6. The Students' Union must inform the individual/ group of the outcome and of their right of appeal in the light of additional information or evidence. Any appeal should be made in writing to Falmouth and Exeter Students' Union Chair of the Trustee Board within 10 working days.

3. **Members Disciplinary Hearing (Stage 3)**

- 3.1. In the event of the decision to proceed to a Members Disciplinary Hearing a panel shall normally aim to hear such a case within 20 working days of notification.
- 3.2. The individual/group will be notified in writing of the allegations and a copy of the Code of Conduct and Bye Law 11: Disciplinary & Appeals will be provided.
- 3.3. All incidents above level 2 disciplinary hearing guidelines will be reported to the relevant University who may also invoke the Universities own disciplinary procedures for students.
- 3.4. The panel holding the Members Disciplinary Hearing will have access to all evidence, papers and identify and summon witnesses and conduct other enquiries as it may think fit.
- 3.5. The panel will consist of 5 persons, with equal attendance from both staff and representative roles with a quorum of 4:
 - 1 Union Director
 - Normally the President Welfare and Inclusivity (Chair)
 - 1 Union Manager / Project Lead
 - 2 Executive Officers
- 3.6. This panel shall be known as the **Members Disciplinary Panel** and will normally be chaired by the President Welfare and Inclusivity. All administrative support including organisation, communications and minutes will be provided by a member of Students' Union staff.
- 3.7. Any panel member with an affiliation to or conflict of interest with the individual/group under review must declare this before agreeing to sit on the panel and may be asked to relinquish their position for the duration of the related hearing.
- 3.8. In this case a suitable replacement will sit on the panel in their place.
- 3.9. The Members Disciplinary Panel should hear all aspects of the disciplinary matter, including hearing and asking questions of:
 - the individual or group bringing the charge (or their representative)
 - the individual or group subject to the charge (or their representative)
 - any witnesses called by either party
- 3.10. Witnesses may be called by:
 - The Members Disciplinary Panel
 - The individual or group or his/her representative bringing the charge,
 - The individual or group subject to the charge (or their representative)
- 3.11. Witness may give evidence and present any relevant documents to the panel.
- 3.12. Based on the evidence presented, the Members Disciplinary Panel shall then deliberate on the matter and decide on the appropriate action to be taken.
- 3.13. Evidence of any earlier misconduct shall not be presented until after the decision has been reached on the facts of the case, but then may be admitted and considered in deciding on any punishment.
- 3.14. The ultimate sanction shall be the suspension of Students' Union membership.
- 3.15. The hearing shall take place in private and a record shall be made; these shall be kept and used in any appeal.
- 3.16. The panel may refer any matter to the relevant University or Universities line with the guidance in [Falmouth University's Student Code of Conduct](#) or [The University of Exeter General Regulations for Students](#)
- 3.17. Outcomes of the disciplinary hearing will be:
 - not substantiated,
 - not proven,
 - proven

- 3.18. Penalties of the disciplinary hearing can include (further guidance in the Code of Conduct):
- informal advice given,
 - recorded warning,
 - Group or individual suspension (Note: Whilst under suspension no member will be excluded from the Union Advice Service or access to Advice and Representation from the Students' Union).
 - Life ban from Union activities
- 3.19. Where a Group is disciplined it will be on the basis that a percentage of its members were collectively involved. If an allegation is made against the whole Group and involves at least 20% of its members, then the Union reserve the right to take group action.
- 3.20. Any complaint could begin its journey at any of the above stages.

4. Appeals

- 4.1. The Members Disciplinary Panel must inform the individual or group of their right of appeal and that any appeal should be made in writing to the Chair of the Board of Trustees within 10 working days.
- 4.2. The grounds of the appeal should be detailed and will normally include one or more of the following headings:
- a) procedural error
 - b) new evidence which could not have been made available at the Hearing
 - c) unfair or perverse decision by Disciplinary Panel
 - d) severity of the decision
- 4.3. If there are grounds for an appeal the Chair of the Board of Trustees will convene and Chair a **Members Appeals Committee**. This committee will be made up of:
- President (who is Chair of the Board of Trustees)
 - the Chair of the Union Council
 - the Union Chief Executive or Union Director.
- 4.4. All must not have been involved in the original Members Disciplinary Committee. Where this is not possible, due to conflict of interest or other reason(s), any vacant place on the Members Appeals Committee will be filled by a member of the Union Council as appointed by the Union Chair of the Board of Trustees.
- 4.5. The individual shall be notified in writing at least 10 working days in advance of the Members Appeals Committee meeting.
- 4.6. The Members Appeals Committee shall review the reason for the appeal and the rationale behind the original decision. They shall also review any new evidence that has emerged since the disciplinary meeting. The matter shall be put to a vote and the decision shall be final.
- 4.7. The hearing shall take place in private and a record shall be made.
- 4.8. If the individual is still dissatisfied, then they may refer their final appeal to the Union Board of Trustees. A review will be led by one Lay Trustee and one other Trustee not previously included and their decision shall be final.